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EXAMINER

KING, ANITA M

ART UNIT PAPER NUMBER

3632

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,110

Applicant(s)

SANATGAR ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) 12-19 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

This is the second office action for application number 10/601,110, Metal Tube Support Bracket and Method for Supporting a Metal Tube, filed on June 23, 2003.

Election/Restrictions

Claims 12-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 6, 2004.

Drawings

The drawings are objected to because the specification cites "Fig. 1" however, there is no Fig. 1 in the drawings (see page 5, lines 26-27) and "D₁" in Fig. 5 should be -d₁--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of

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the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "44" and "78". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "82". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled

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"Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Claims 7 and 11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations of claim 7 and partially of claim 11 are drawn to a method step, i.e., draw-punching, this is not a structural limitation and thus is not given any patentable weight.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the claim 8 and the language in claim 1, thereby making the scope of the claim unclear. Claim 1 clearly indicates that a subcombination is being claimed, e.g., "said aperture and collar being sized for receiving therethrough in close-fitting relationship a metal tube". This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a tube support bracket," the metal tube being only functionally recited.

The problem arises when the metal tube is positively recited within the body of the claim, such as in claim 8. The examiner cannot be sure if applicant's intent is to claim merely the tube support bracket or the tube support bracket in combination with the metal tube.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the support bracket alone or the combination of the support bracket and the metal tube. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,158,066 to Brown et al., hereinafter, Brown. Brown discloses a tube support bracket that comprises a metal support bracket (16) formed having a circular tube-receiving aperture (18) and an annular, castellated collar (20) abutting the aperture, the aperture and collar being sized for receiving therethrough in close-fitting relationship a tube (12), the collar being formed having a plurality of spaced, axial tabs (44) sized for swaging against in hoop stress and bites a metal tube (15); wherein the collar is formed integrally as a part of the support bracket; and wherein the tabs comprise four, equally space-apart tabs.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,127,844 to Anderson in view of U.S. Patent 3,193,613 to Van Buren, Jr.,

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hereinafter, Van Buren. Anderson discloses a tube support bracket that comprises a metal support bracket (10) formed having a circular tube-receiving aperture (14) and a plurality of spaced tabs (13) sized for swaging against in hoop stress and bites a metal tube (15); and wherein the tabs comprise four, equally space-apart tabs. Anderson discloses the claimed invention except for the limitation of a castellated collar. Van Buren teaches a metal box (1) having a circular tube-receiving aperture (11) and an annular, castellated collar (7) abutting the aperture, and the aperture and collar being sized for receiving therethrough in close-fitting relationship a metal tube (6), the collar being sized for swaging against in hoop stress and bite the tube. It would have been obvious on having ordinary skill in the art at the time the invention was made to have modified the support bracket in Anderson to have included the collar as taught by Van Buren for the purpose of providing an integral, alternative yieldable means for supporting a metal tube within an aperture of the bracket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the material of the support bracket and the collar in Anderson combined with Van Buren to have been a ductile metal alloy having an aluminum-coated steel material for the purpose of providing an alternative, mechanically equivalent material for constructing the metal support bracket and collar based on the material's suitability for the intended use.

Claims 2 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson combined with Van Buren and in further view of U.S. Patent 5,693,910 to Gretz. Anderson combined with Van Buren discloses the claimed invention except for

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the limitation of grooves on the inner surfaces of the tabs. Gretz teaches an annular, castellated collar (20) having a plurality of tabs (24) spaced-apart and sized for receiving a tubular member (62), wherein the inner surfaces of each of the collar tabs is formed having at least one axial groove (58) formed therein, the groove being configured for receiving exterior regions of the tubular member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the collar in Anderson combined with Van Buren to have included the collar as taught by Gretz for the purpose of providing flexibility to the tab while at the same time maintaining structural integrity of the collar.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the material of the support bracket and the collar in Anderson combined with Van Buren and Gretz to have been a ductile metal alloy having an aluminum-coated steel material for the purpose of providing an alternative, mechanically equivalent material for constructing the metal support bracket and collar based on the material's suitability for the intended use.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2,140,443 to Clark

U.S. Patent 3,690,609 to Montesdioca

U.S. Patent 3,809,350 to Lane

U.S. Patent 4,254,930 to Warren

U.S. Patent 4,299,363 to Datschefski

U.S. Patent 4,550,451 to Hubbard

U.S. Patent 5,370,345 to Condon

U.S. Patent 6,375,128 to Condon et al.

U.S. Patent 6,702,236 to Kirschner

The above patents all disclose various types of pipe or tubular member supports.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

September 27, 2004